

MEMORANDUM

Agenda Item No. 4(G)


TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: April 8, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance establishing County policy to use the civil and criminal traffic infraction surcharge imposed by the County pursuant to State law and Section 1-14 of the Code to supplement, and not replace, existing funding for services and programs within the unincorporated municipal services area; and directing County Mayor to expressly show such funding in Mayor's proposed fiscal year 2014-15 County budget

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Juan C. Zapata.



R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM

(Revised)

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and Members, Board of County Commissioners

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Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 4(G)
4-8-14

ORDINANCE NO. _____

ORDINANCE ESTABLISHING COUNTY POLICY TO USE THE CIVIL AND CRIMINAL TRAFFIC INFRACTION SURCHARGE IMPOSED BY THE COUNTY PURSUANT TO STATE LAW AND SECTION 11-14 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO SUPPLEMENT, AND NOT REPLACE, EXISTING FUNDING FOR SERVICES AND PROGRAMS WITHIN THE UNINCORPORATED MUNICIPAL SERVICES AREA; AND DIRECTING COUNTY MAYOR TO EXPRESSLY SHOW SUCH FUNDING IN MAYOR'S PROPOSED FISCAL YEAR 2014-15 COUNTY BUDGET; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

WHEREAS, in November 1998, State of Florida (the "State") voters approved Revision 7 to Article V of the Florida Constitution which shifted funding responsibility for much of the State court system from counties to the State; and

WHEREAS, in implementing Revision 7, the State Legislature revised statutes to take away from each county any civil penalties collected from traffic infractions occurring within the unincorporated area of such county, while allowing municipalities to continue to receive the commensurate portion of the revenues from civil penalties for traffic infractions occurring within the municipality and received by a county court pursuant to Chapter 318, Florida Statutes; and

WHEREAS, Section 318.21, Florida Statutes, provides that, if a traffic infraction occurred within a municipality, 50.8 percent of all civil penalties collected shall be paid to such municipality and 5.6 percent shall be deposited in the fine and forfeiture fund for use by the clerk of the circuit court for court related functions; and

WHEREAS, in contrast to the treatment afforded to municipalities, civil penalties collected from traffic infractions occurring within the unincorporated area of the County are not

remitted to the County for its use in the same proportion such amounts are remitted to municipalities; and

WHEREAS, instead, all civil penalties collected from traffic infractions occurring within the unincorporated area of a county are remitted to either the Department of Revenue for State purposes or to the fine and forfeiture fund for use by the clerk of the circuit court for court related functions, with no portion remitted to the County for its use; and

WHEREAS, prior to this legislative change, all civil penalties collected from traffic infractions occurring within the unincorporated area of the county were appropriated to the Unincorporated Municipal Services Area budget to fund services within the unincorporated area, including law enforcement services; and

WHEREAS, to address this issue, rather than amend Section 318.21, Florida Statutes, the State Legislature enacted a separate statutory provision authorizing the County to impose a surcharge up to fifteen dollars for civil and criminal traffic infractions; and

WHEREAS, Section 318.18(14), Florida Statutes, provides that revenue from the surcharge shall be transferred to the County “for the purpose of replacing fine revenue deposited into the clerk’s fine and forfeiture fund”; and

WHEREAS, as authorized by Section 318.18(14), Florida Statutes, the County currently imposes a fifteen dollar (\$15.00) civil and criminal traffic infraction surcharge pursuant to Section 2-11.14 of the Code of Miami-Dade County, Florida (the “Surcharge”); and

WHEREAS, although Section 318.18(14), Florida Statutes, provides that revenue from the surcharge was transferred to the County “for the purpose of replacing fine revenue deposited into the clerk’s fine and forfeiture fund,” the County does not use Surcharge revenues to fund

needs in the unincorporated municipal service area in the same manner as municipalities use its fine revenues; and

WHEREAS, instead, in the County's Fiscal Year 2013-14 budget the \$6.364 million estimated to be collected from the Surcharge was appropriated to the Office of Administrative Office of the Courts; and

WHEREAS, so that the unincorporated municipal service area of the County may receive the same treatment as municipalities as it pertains to traffic infraction revenues, this Board wishes to establish as its policy that revenues from the Surcharge be used to supplement, and not replace, existing funding for services and programs within the unincorporated municipal service area and that such funding shall be included as part of the Mayor's proposed fiscal year 2014-15 County budget,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. The foregoing recitals are incorporated in this ordinance and are approved.

Section 2. This Board hereby establishes as its policy that revenues from the Surcharge be used to supplement, and not replace, existing funding for services and programs within the unincorporated municipal service area (the "Policy").

Section 3. This Board hereby directs the County Mayor or the County Mayor's designee to expressly show funding for such Policy as part of the Mayor's proposed fiscal year 2014-15 budget for the Unincorporated Municipal Service Area.

Section 4. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 5. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall not become and be made a part of the Code of Miami-Dade County, Florida.

Section 6. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:


GBK

Prepared by:

Geri Bonzon-Keenan

Prime Sponsor: Commissioner Juan C. Zapata